

Also, the following message from the Governor :

EXECUTIVE OFFICE,
Austin, July 18, 1870.

Hon. DON CAMPBELL,

President of Senate :

SIR : I am compelled to return to your House, where it origi-

nated, the act entitled "An Act to expedite the construction of the Southern Pacific Railroad," which I consider objectionable in the following respects :

1. This act assumes throughout its preamble and body that the Southern Pacific Road is a living and subsisting charter in the hands of the "present direction," and that it has forfeited no right or privilege whatever. This assumption or declaration attempts indirectly to commit the Legislature to a revival of the land grant. In this regard I ask to refer your House to the grounds taken in my message of the thirteenth instant, returning the Eastern Texas Railroad Company "act.

2. It assumes, throughout the preamble and body, that the "present direction" inspire confidence in their financial integrity and purpose, and that the railroad owes no debt (except that due the special school fund) which constitutes a lien upon its road. No evidence whatever has been shown to sustain either of these conclusions. This road and its franchises have, I understand, been sold out several times. It is impossible without a protracted judicial investigation to find out what claims are outstanding against it, or whether the "present direction," to whom it is proposed to issue this large amount of bonds, have any rights whatever, or are able to give the State such lien upon the road as will secure the amount of these bonds. In this connection I call your attention to the provision in section second, making the bonds payable to the company or bearer. The bonds may, under this provision, pass out of the hands of the company at once, and leave the State without remedy.

3. It requires the issue, by the State, of bonds to the extent of sixteen thousand dollars (\$16,000) per mile of the *completed* as well as the *uncompleted* part of the road, and those bonds which are to be issued for the *completed* portion are to be delivered as soon as the amount due the school fund, two hundred and twenty thousand dollars (\$220,000), is paid in. I understand that about forty-six (46) miles are completed, requiring seven hundred and thirty-six thousand dollars (\$736,000) of bonds. Thus, while on the one hand we receive the two hundred and twenty thousand dollars (\$220,000), belonging to the school fund, on the other we pay out more than three times that amount in bonds payable, interest and principal, in gold. This, with all respect, seems to me a very bad financial arrangement, especially when it is considered that we have no security that the road is free from debts that would take precedence of the lien of the State. Aside from this danger, it seems too, bad policy for the State to expend its limited resources in subsidizing roads *already built*.

4. The second section is objectionable in making the bonds, prin-

principal and interest, payable in gold, and making the interest payable in New York city on the first of January and July of each year. Under this arrangement, if carried out, we are *at once* to make preparation to pay in New York gold interest on seven hundred and thirty-six thousand dollars, and on such additional bonds as may, from time to time, be issued as the road progresses. I respectfully call your attention to the fact that our taxes are collected in United States paper currency, and that we must, if this bill becomes a law, and the company fails to make payment to the State (which, judging from our past experience with railroads, is an absolute certainty), get the gold to pay interest by purchasing it.

5. The fifth section is *especially* objectionable. It appears that under this the company is not bound for any of the principal until after the whole amount of the bonds, contemplated by the act, has been issued. The peculiar wording of this section opens the door to a fraud upon the State. If the *whole amount* of the bonds is *never* issued, then the company *never* becomes responsible. The State is, however, required to issue her bonds as each section of ten miles is completed. I suggest that no prudent capitalist would make a loan to the road under this sort of contract. Many contingencies may prevent the issuance of the "whole amount" of the bonds called for, and this, perhaps, without either party being fully responsible.

6. There is the further constitutional objection, that no provision is made in the act for payment of the interest and two per cent., as a sinking fund of the debt contracted hereby. Section twenty-three of article twelve, general provisions of the constitution, contains the wise provision that in all cases where State or county debt is contracted, "it shall be the duty of the Legislature to provide adequate means for the payment of the current interest and two per cent., as a sinking fund for the redemption of the principal." This wise provision seems to have been intended as a restraint upon hasty legislation. Apparently it was thought that if legislators, in the very case (act), where debt was contracted, were also compelled to provide a tax upon their constituents to pay such debt, then they would be more cautious in creating it. In this case a debt is proposed of some five millions, for which (principal and interest) in any event the State is *primarily* responsible, but no provision whatever is made for its payment. I suppose this defect has been overlooked, and that your honorable body will not permit any evasion of this wholesome section. It will not do to remit so important a matter to the chances of a supplemental bill, or other action to be had hereafter in the present or a future

Legislature. The taking of such chances could not have been contemplated by the makers of the constitution.

7. Finally, I will call your attention to the limitation put in this bill of twenty millions of dollars (\$20,000,000,) as the whole debt that can be incurred by the State. This is intended as a contract with the company, and if entered into, can only be evaded on our part by a violation of faith, however imperative the necessity may be. It limits the amount of debt for internal improvements, or for support of the State Government, or for any other purpose, to this sum. Now, if the limitation were applied only to internal improvements, the sum would be too large; and would invite a scramble to grasp the balance; but, as it is intended to limit the debt for any purpose, the impropriety of the arrangement is more obvious. It may very reasonably be expected to happen that, long before the proposed debt is totally paid off, the necessities of the State and the support of its Government may require a larger debt than twenty millions of dollars, especially if this amount should be absorbed in internal improvements, as is more than likely, when the temptation is held out to speculators. In conclusion, I therefore ask a reconsideration of your vote on the adoption of this act.

Respectfully,

EDMUND J. DAVIS,
Governor.